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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

7 SHARON ELAINE BURLESON,  
8  
9 Plaintiff,

10 v.

11 SECURITY PROPERTIES  
12 RESIDENTIAL, LLC, *et al.*,  
Defendants.

CASE NO. C18-0513RSL

ORDER DENYING  
PLAINTIFF'S MOTION TO  
AMEND

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14 This lawsuit was filed in April 2018. In her Second Amended Complaint,  
15 plaintiff alleges that she is African-American with "a left-side deficit" and that she has  
16 been charged over the course of her tenancy at Angeline Apartments "excessively and  
17 inordinately, higher rates for water, sewer, and trash services than other tenants that  
18 reside/resided at the apartment complex." Dkt. # 52 at 9. She disputed the bills, but was  
19 stymied in her efforts to ascertain how her bills were calculated because the billing  
20 company, American Utility Management, Inc. ("AUM"), refused to provide her with her  
21 individual usage, which plaintiff believes is a violation of Seattle Municipal Code  
22 ("SMC") 7.25. Plaintiff alleges that the excessive billing and refusal to provide relevant  
23 information were discriminatory and arose out of a civil conspiracy between the owner  
24 of the apartment building, the billing company, and two employees of the corporate

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1 defendants.

2 On January 2, 2019, the Court dismissed all of plaintiff's claims except her Title  
3 VIII Fair Housing Act claim. Because some of the dismissed claims might be saved by  
4 further amendment, the Court gave plaintiff until February 5, 2019, to "file a motion to  
5 amend and attach a proposed third amended complaint for the Court's consideration" if  
6 she believed she could, consistent with her obligations under Fed. R. Civ. P. 11, amend  
7 her complaint for a fourth time to remedy the identified pleading and legal deficiencies.  
8 Dkt. # 73 at 11; Dkt. # 79 at 1.

9 On February 5th, plaintiff timely filed a "Proposed Third Amended Complaint"  
10 with a footer and docket entry indicating that the document was a motion. The  
11 motion/proposed pleading was noted on the Court's calendar for consideration on the  
12 third Friday after filing. Dkt. # 80. Defendants' procedural objections to the fact that  
13 plaintiff did not file a separate motion and proposed pleading are overruled.

14 Having reviewed plaintiff's proposed third amended complaint and the  
15 defendants' responses thereto, the Court finds as follows:

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17 The proposed pleading contains claims under Section 1983 (for violations of the  
18 Fourteenth Amendment), Section 1985, Title VIII Fair Housing Act, antitrust laws, and  
19 Title VI of the Civil Rights Act of 1964. Plaintiff's Fair Housing Act claim was  
20 adequately pled in the Second Amended Complaint and need not be restated in an  
21 amended pleading. Plaintiff's proposed Section 1983 and antitrust claims are futile,  
22 however, in that they would be subject to immediate dismissal for the reasons stated in  
23 the Order Regarding Pending Motions (Dkt. # 73). With regards to the newly-asserted  
24 Section 1985 claim, plaintiff was not invited to add any new claims when the Court

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1 extended the time in which she could seek to amend her complaint. She has not shown  
2 why she delayed so long in asserting a claim under Section 1985 when her previously-  
3 asserted state law conspiracy claim was part of the lawsuit from the beginning. In  
4 addition, her allegations of an agreement among the co-conspirators are conclusory and  
5 in some ways belied by her other allegations.

6 Finally, with regards to the Title VI claim, plaintiff seeks to add allegations of  
7 financial assistance in the form of the City of Seattle's Multi-Family Tax Exemption  
8 housing program and references to a Department of Justice guidance document. These  
9 additions are insufficient to raise a plausible claim for relief under Title VI. The  
10 financial benefits are, as plaintiff acknowledges, coming from the City of Seattle, rather  
11 than the federal government. In addition, the guidance document plaintiff attached to her  
12 proposed pleading clearly states that "[t]ypical tax benefits, tax exemptions, tax  
13 deductions, and most tax credits are not considered federal financial assistance" for  
14 purposes of Title VI. Dkt. # 80-2 at 7.

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16 For all of the foregoing reasons, plaintiff's motion for leave to amend her  
17 complaint (Dkt. # 80) is DENIED. The Fair Housing Act claim set forth in the Second  
18 Amended Complaint (Dkt. # 52) against defendants Security Properties Residential,  
19 LLC, Amy Simpson, American Utility Management, Inc., and Jennifer Spagnola is the  
20 only claim remaining in this litigation.

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22 Dated this 26th day of March, 2019.

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24 Robert S. Lasnik  
25 United States District Judge

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